



ITW

THE UNITED STATES PATENT AND TRADEMARK OFFICE

P06335US03

In re application of

FOSTER ET AL

Art Unit: 1646

Serial No.: 10/615,383

Filed: July 9, 2003

For: ANTIBODIES TO POLYPEPTIDES FROM COAGULASE-NEGATIVE STAPHYLOCCI

**LETTER - SECOND REQUEST FOR CORRECTED FILING RECEIPT  
AND RESPONSE TO IMPROPER RESPONSE TO REQUEST  
FOR CORRECTED FILING RECEIPT**

Commissioner for Patents

Office of Initial Patent Examination

Customer Service Center

Washington, D.C. 20231

S I R:

Correction of the Filing Receipt is requested for the second time in that the initial request was improperly refused. Applicants resubmit a copy of the filing receipt for the above-identified application showing the requested appropriate corrections (Attachment A) which relate to the priority claims to the provisional applications of the parent case.

The "Response to Request for Corrected Filing Receipt" mailed November 18, 2003 (copy attached as Attachment B) is totally in error, particularly considering that the parent application to the present divisional application, which was filed during the pendency of the parent case, has issued as US Patent 6,635,473 on October 21, 2003, and the front page of the patent (copy attached as Attachment C) clearly reflects the citation of priority in this case which is entirely proper.

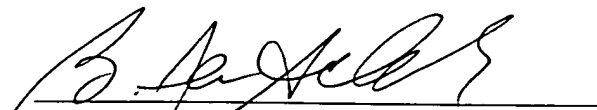
In the "Response to Request for Corrected Filing Receipt" mailed November 18, 2003, the asserted reason for not complying with the request to correct the filing receipt was that "The

application(s) to which priority is claimed were filed over a year prior to the filing date of this application. Therefore, the referenced application(s) cannot be claimed as domestic or foreign priority." However, as indicated above, the original priority claim in this case was based on US Provisional Application Ser. No. 60/098,443, filed August 31, 1998, and US Provisional Application Ser. No. 60/117,119, filed January 25, 1999, and these applications provided the priority claim for the parent case to the present application, namely US Ser. No. 09/386,962, filed August 31, 1999. Since the earliest priority date claimed, August 31, 1998 is **not** more than a year before the filing of the regular parent application on August 31, 1999, the priority is entirely proper, and such information should properly be included on the present filing receipt.

It is also noted that previously, with regard to the provisional application 60/117,119, filed January 25, 1999, another error was made in the original filing receipt and the date was improperly recorded as January 25, 1998. However, this was corrected in a corrected filing receipt indicating that the filing date of 60/117,119 was indeed January 25, 1999. A copy of the corrected filing receipt for US Provisional 60/117,119 is also attached hereto as Attachment D.

In short, the asserted reasons for denying correction of the filing receipt for the above application are totally in error, and it is respectfully requested at this time that the records of the Patent Office be corrected and that a Corrected Filing Receipt be sent to the undersigned. Should there be any questions, the responsible Officials are requested to telephone the undersigned counsel to expedite issuance of the corrected receipt.

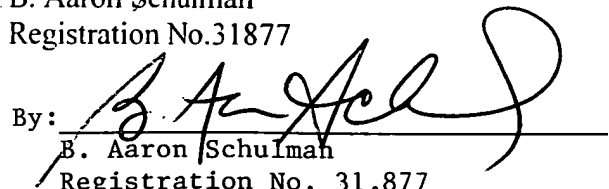
Respectfully submitted,  
LARSON & TAYLOR, PLC



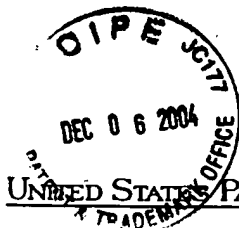
B. Aaron Schulman  
Registration No. 31877

Date: December 4, 2003

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By:   
B. Aaron Schulman  
Registration No. 31,877

6 December 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/615,383	07/09/2003	1646	459	P06335US03/BAS	28	15	5

CONFIRMATION NO. 5842

00881  
 LARSON & TAYLOR, PLC  
 1199 NORTH FAIRFAX STREET  
 SUITE 900  
 ALEXANDRIA, VA 22314

## FILING RECEIPT



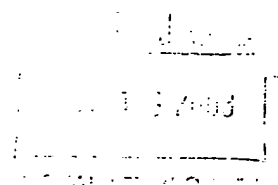
\*OC000000011039273\*

Date Mailed: 10/15/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Timothy J. Foster, Dublin, IRELAND;  
 Kirk McCrea, Houston, TX;  
 Magnus A.O. Hook, Houston, TX;  
 Stacey Davis, Houston, TX;  
 Deirdre Ni Eidhin, Dublin, IRELAND;  
 Orla Hartford, Meath, IRELAND;



## Domestic Priority data as claimed by applicant

This application is a DIV of 09/386,962 08/31/1999 PAT 6,635,473 and claims benefit of  
 60/117,119 1/25/99 and 60/098,443 8/31/98

## Foreign Applications

If Required, Foreign Filing License Granted: 10/15/2003

Projected Publication Date: 01/22/2004

Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

ATTACHMENT A

**Title**

Antibodies to polypeptides from coagulase-negative staphylococci

**Preliminary Class**

435

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

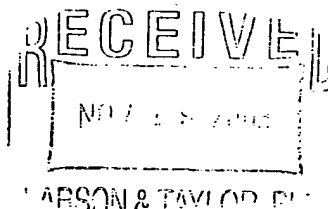


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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/615,383	07/09/2003	Timothy J. Foster	P06335US03/BAS

00881  
LARSON & TAYLOR, PLC  
1199 NORTH FAIRFAX STREET  
SUITE 900  
ALEXANDRIA, VA 22314



CONFIRMATION NO. 5842



\*OC000000011296528\*

Date Mailed: 11/18/2003

## RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

### Domestic Continuity and Foreign Priority

In response to your request for a corrected Filing Receipt, the Office is unable to comply with the request because:

- ☐ The priority or continuity claim has not been entered because it was not filed during the required time period. Applicant may wish to consider filing a petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55 or 1.78.
- ☐ Continuity claimed under 35 U.S.C. § 120 cannot be added to the Filing Receipt without the applicant supplying the relationship (continuation, divisional, or continuation-in-part) in an Application Data Sheet or amendment to the first page of the specification.
- ☐ A claim for priority cannot be made based on an application filed after the application making the claim.
- ☐ Domestic benefit and foreign priority claims will not be captured in a provisional application. A provisional application is not entitled to a right of priority or to the benefit of an earlier filing date of any other application. See 35 U.S.C. § 111(b)(7) and 37 CFR 1.53(c)(4).
- ☐ A domestic continuity claim cannot be made to a foreign application and the filing receipt will only list the foreign country, application number, and filing date.
- ☐ Foreign priority will appear on the Filing Receipt in the following order: **Country, Application number, Filing date.**
- ☐ This application is the result of a conversion from a provisional application. Priority based on such application cannot be made since it no longer exists as a provisional application.

ATTACHMENT B

- ☒ The application(s) to which priority is claimed were filed over a year prior to the filing date of this application. Therefore, the referenced application(s) cannot be claimed as domestic or foreign priority.
- ☐ To change the benefit claim of a U.S. prior-filed application, applicant must amend the first sentence of the specification (if the benefit claim is referenced in the specification), or provide a supplemental application data sheet (ADS) (if the benefit claim was submitted in an ADS), with the desired benefit claim. Note that once a benefit claim is deleted, applicant will not be able to claim such prior-filed application again, if the above-identified application was filed on or after November 29, 2000.
- ☐ To change a foreign priority claim, applicant must submit a supplemental oath or declaration (if the priority claim is referenced in the oath or declaration), or a supplemental application data sheet (ADS) (if the priority claim was submitted in an ADS), with the desired priority claim. If a supplemental ADS is submitted, any deletions should be shown with strikeouts. Note that once a priority claim is deleted, applicant will not be able to claim such foreign application again, if the above-identified application was filed on or after November 29, 2000.

Haimanot Tegbaru  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

ev. 6-88)

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CITY  
DEC 06 2004  
CATION  
PATENT & TRADEMARK OFFICE



APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
60/117,119	01/25/99		\$150.00	INH05344.105	12		

SHERRY M KNOWLES  
KING & SPALDING  
191 PEACHTREE STREET  
ATLANTA GA 30303-1763

Receipt is acknowledged of this Provisional Application. This Provisional Application will not be examined for patentability. Be sure to provide the PROVISIONAL APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Provisional Application Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts of Application" ("Missing Parts Notice") in this application, please submit any corrections to this Filing Receipt with your reply to the "Missing Parts Notice." When the PTO processes the reply to the "Missing Parts Notice," the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate). This Provisional Application will automatically be abandoned twelve (12) months after its filing date and will not be subject to revival to restore it to pending status beyond a date which is after twelve (12) months from its filing date.

**Applicant(s)** TIMOTHY J. FOATER, DUBLIN, IRELAND; MAGNUS A. O. HOOK, HOUSTON, TX; STACY DAVIS, HOUSTON, TX; ORLA HARTFORD, HOUSTON, TX; KIRK MCCREA, HOUSTON, TX.

POLYPEPTIDES AND POLYNUCLEOTIDES FROM COAGULASE-NEGATIVE STAPHYLOCCI

DATA ENTRY BY: WITCHER, TARA

TEAM: 05 DATE: 01/24/00

**THE UNIVERSITY OF CHICAGO**